IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

WP(C).No. 29611 of 2007(A)

PETITIONERS:

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1. MANOHARAN T.B., AGED 38 YEARS,
   S/O. T.G. BHASKARAN, THUNDIPARAMBIL,
   SOUTH PUTHUVYPU, PUTHUVYPU P.O.-682 508.

2. CHANDRAN M.K., S/O. KRISHNAN,
   AGED 64, RESIDING AT MADATHIPARAMBIL HOUSE,
   OCHANTHURUTH P.O., PUTHUVYPU.

3. VENU P.V., AGED 47 YEARS,
   S/O. VELAYUDHAN, PUTHUVALSTHALATHU,
   MURIKKUMPADAM, AZHIKKAL P.O.-682 510.

4. JAYAN P.N. AGED 38 YEARS,
   S/O. NARAYANAN, PUTHUVALSTHALATHU,THEKKAN MALIPRAM
   AZHIKKAL P.O.-682 510.

5. K.L. VISWAN, AGED 38,
   S/O. LEKSHMANAN, KOLAPARAMBIL, SOUTH PUTHUVYPU,
   PUTHUVYPU P.O., PIN-682 508.

6. V.L. GOPALAN, AGED 33,
   S/O. LEKSHMANAN, VADAKKETHERUVIL,THEKKAN MALIPURAM
   AZHEEKAL P.O., PIN-682 510.

7. P.S. BABU, AGED 43,
   S/O. SREENIVASAN, PALIYAMPARAMBIL, AZHEEKAL,
   AZHEEKAL P.O.

8. P.G. RAJAN, AGED 57,
   S/O. GOVINDAN, PUTHUVALSTHALATHU HOUSE,
   MUKRIKKUMPADOM, AZHEEKAL P.O.

9. K.G. NARAYANAN, AGED 59,
   S/O. GOVINDAN, KANIYAMPARAMBIL, APPANGADU,
   NARAKKAL P.O., PIN-682 505.

10. P.N. MOHANAN, AGED 51,
    S/O. NARAYANAN, PULIMCHUVATTIL, APPANGAD,
    NARAKKAL P.O.

11. P.V. DINASAN, AGED 42,
S/O. VELAYUDHAN, PUTHUVALSTHALATHU,
MURIKKUMPADOM, AZHEEKAL P.O.

12. P.B. VIJAYAN, AGED 50,
S/O. BAVAN, PUTHUVALSTHALATHU HOUSE,
MURIKKUMPADOM, AZHEEKAL P.O.

13. T.G. VIJAYAN, AGED 53,
S/O. GOVINDAN, THAREPARAMBIL, AZHEEKAL,
AZHEEKAL P.O.

14. P.S. VENU, AGED 35,
S/O. SANKARAN, PALIYAMPARAMBIL, AZHEEKAL,
AZHEEKAL P.O.

15. P.K. SAJEEVAN, AGED 35,
S/O.KRISHNAN, PUTHUVALSTHALATHU HOUSE,
SOUTH PUTHUVYPU, PUTHUVYPU P.O.

16. P.G. CHANDRAMOHANAN, AGED 39,
S/O. GOVINDAN, PUTHUVALSTHALATH,THEKKANMALIPURAM,
AZHEEKAL P.O.

17. P.R. ASOKAN, AGED 42,
S/O. RAMACHANDRAN, PALIYAMPARAMBIL, AZHEEKAL,
AZHEEKAL P.O.

18. P.P. SURESH, AGED 45,
S/O. PONNAN, PALIYAMPARAMBIL, AZHEEKAL,
AZHEEKAL P.O.

19. P.G. ANU, AGED 30,
S/O. GOPALAN, PUTHUVALSTHALATHU HOUSE,
MURIKKUMPADOM, AZHEEKAL P.O.

20. P.B. BALAMURALI, AGED 35,
S/O. BALAKRISHNAN, PUTHUVALSTHALATHU,
SOUTH PUTHUVYPU, PUTHUVYPU P.O.

21. P.S. SIVARAMAN, AGED 58,
S/O. SANNALAN, PUTHUVALSTHALATHU,
THEKKENMALIPURAM, AZHEEKAL P.O.

22. P.S. LOHIDAKSHAN, AGED 56,
S/O. SANNALAN, PUTHUVALSTHALATHU,
THEKKENMALIPURAM, AZHEEKAL P.O.

23. T.S. PADMANABHAN, AGED 56,
S/O. SREENIVASAN, THUNDIPARAMBIL, AZHEEKAL,
AZHEEKAL P.O.

24. M.K. RAMACHANDRAN, AGED 42,
S/O. KRISHNAN, MADATHIPARAMBIL, SOUTH PUTHUVYPU,
PUTHUVYPU P.O.

25. T.R.SIVAJI, AGED 42,
S/O. RAMAN, THAREPARAMBIL, SOUTH PUTHUVYPU,
PUTHUVYPU P.O.

26. P.J. VIJAYAN, AGED 37,
S/O. JANARDHANAN, PUTHANVEETTIL, SOUTH PUTHUVYPU,
PUTHUVYPU P.O.

27. P.R. CHANDRAN, AGED 62,
S/O. RAMAN, PUTHUVALSTHALATHU HOUSE,
THEKKANMALIPPURAM, AZHEEKAL P.O.

28. P.R. GOPI, AGED 49,
S/O. RAMAN, PUTHUVALSTHALATHU HOUSE,
MURIKKUMPADAM, AZHEEKAL P.O.

29. P.V. VINU, AGED 31,
S/O. VELAYUDHAN, PUTHUVALSTHALATHU,
SOUTH PUTHUVYPU, PUTHUVYPU P.O.

30. P.R. SASI, AGED 46,
S/O. RAMAN, PALIAMPARAMBIL, AZHEEKAL,
AZHEEKAL P.O.

31. P.B. BALATHILAK, AGED 32,
S/O. BALAKRISHNAN, PUTHUVALSTHALATHU,
SOUTH PUTHUVYPU, PUTHUVYPU P.O.

32. P.D. GOPI, AGED 47,
S/O. DUDACHAN, PUTHUVALSTHALATHU HOUSE,
MURIKKUMPADOM, AZHEEKAL P.O.

33. P.S. SANTHOSH, AGED 43 YEARS,
S/O. SANNAPUTHI, PUTHUVALSTHALATHU,
THEKKANMALIPPURAM, AZHEEKAL P.O.

34. P.R. BABU, AGED 44,
S/O. RAMAN, PUTHUVALSTHALATHU HOUSE,
THEKKANMALIPURAM, AZHEEKAL P.O.

35. M.K. RAVI, AGED 47,
S/O. KRISHNAN, MADATHIPARAMBIL, SOUTH PUTHUVYPU,
PUTHUVYPU P.O.

36. K.V. BAVAN, S/O. VATTU,
KALLUVEETTIL, AZHEEKAL, AZHEEKAL P.O.

37. P.K. PRAKASAN, AGED 38,
S/O. KRISHNAN, PUTHUVALSTHALATHU HOUSE,
SOUTH PUTHUVYPU, PUTHUVYPU P.O.

38. P.M. SEKHARAN, AGED 39,
S/O. MADHAVAN, PUTHUVALSTHALATHU HOUSE,
THEKKANMALIPURAM, AZHEEKAL P.O.

39. P.R. RADHAKRISHNAN, AGED 40,
S/O. RAMAN, PUTHUVALSTHALATHU HOUSE,
SOUTH PUTHUVYPU, PUTHUVYPU P.O.

40. K.M.SURESH, AGED 37,
S/O. MINNA, KUZHIPARAMBIL, AZHEEKAL, AZHEEKAL P.O.

41. P.B. REMESAN, AGED 43,
S/O. BALAN, PUTHUVALSTHALATHU HOUSE,
MURIKKUMPADOM, AZHEEKAL P.O.

42. P.M. SIVAN, AGED 42,
S/O. MADHAVAN, PALIYAMPARAMBIL, AZHEEKAL,
AZHEEKAL P.O.

43. K.K. LOHIDHAKSHAN, AGED 46,
S/O. KRISHNAN, KANDATHIPARAMBIL, AZHEEKAL,
AZHEEKAL P.O.

44. P.B. NAVEENKUMAR, AGED 37,
S/O. BAVAN, PUTHUVALSTHALATHU,MURIKKUMPADOM,
AZHEEKAL P.O.

45. P.V. MANILAL, AGED 33,
S/O. VELAYUDHAN, PUTHUVALSTHALATHU,SOUTH PUTHUVYPU
PUTHUVYPU P.O.

46. P.R. PAVITHRAN, AGED 38,
S/O. RAMAN, PUTHENPURAYKAL, SOUTH PUTHUVYPU,
PUTHUVYPU P.O.

47. K.H. PRAMOD, AGED 27,
S/O. HARIDAS, KANDATHIPARAMBIL, AZHEEKAL,
AZHEEKAL P.O.

48. K.P. VIJAYAN, AGED 37,
S/O. PRABHAKARAN, KOLAPARAMBIL, SOUTH PUTHUVYPU,
PUTHUVYPU P.O.

49. K.G. MANI, AGED 46,
S/O. GOVINDAN, KANIAMPARAMBIL, APPANGAD,
NARAKKAL P.O.

50. P.S. JAYAPPAN, AGED 57,
S/O. SREENIVASAN, PALIYAMPARAMBIL, AZHEEKAL,
AZHEEKAL P.O.

51. P.K. ASOKAN, AGED 43,
S/O. KRISHNAN, PUTHUVALSTHALATHU HOUSE,
THEKKANMALIPURAM, AZHEEKAL P.O.

52. P.B. ANIL, AGED 29,
S/O. BALAKRISHNAN, PUTHUVALSTHALATHU,
MURIKKUMPADOM, AZHEEKAL P.O.

53. K.P. RAVI, AGED 34,
S/O. K.L.PRABHAKARAN, KOLAPRAMBIL,SOUTH PUTHUVYPU,
PUTHUVYPU P.O.

54. P.G. SANILKUMAR, AGED 31,
S/O. GOPALAN, PUTHANPURAYKAL, MURIKKUMPADOM,
AZHEEKAL P.O.

55. P.T. UNNI, AGED 41,
S/O. THANKAPPAN, PALIYAMPARAMBIL, SOUTH PUTHUVYPU,
PUTHUVYPU P.O.

56. P.S. MANOJ, AGED 30,
S/O. SOMAN, PUTHUVALSTHALATHU HOUSE,
MURIKKUMPADOM, AZHEEKAL P.O.

57. P.R. ANANDAN, AGED 45,
S/O. RAMAN, PUTHUVALSTHALATHU HOUSE,
MURIKKUMPADOM, AZHEEKAL P.O.

BY ADV. SRI.A.X.VARGHESE
SRI.A.V.JOJO

RESPONDENTS:
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1. THE GOVERNMENT OF INDIA,
REPRESENTED BY MINISTRY OF OIL AND
NATURAL GAS DEPARTMENT, NEW DELHI.

2. STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY, SECRETARIATE,
THIRUVANANTHAPURAM.

3. THE KOCHI REFINERIES LTD.,
REPRESENTED BY ITS MANAGING DIRECTOR,AMBALAMUGAL.

4. CHAIRMAN,
KOCHI PORT TRUST, WILLINGTON ISLAND.

5. LIQUEFIED NATURAL GAS LTD.,
REPRESENTED BY ITS MANAGING DIRECTOR, 7 D PEEVEES
TRITON APARTMENTS, SHANMUGHOM ROAD, MARINE DRIVE,
KOCHI-682 031.

6. THE DISTRICT COLLECTOR, ERNAKULAM..

BY ADV. SRI.ABRAHAM THOMAS, CGC
SRI. P. PARAMESWARAN NAIR – ASST. SG.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)No. 29611 OF 2007

Dated this the 8th day of October, 2007

JUDGMENT

The petitioners are persons, who are engaged in the avocation of collecting sea shells from the Arabian Sea shore in and around Puthuvypu. For the purpose of enabling the Cochin Refineries Ltd to start work in that area, the said area has been declared as a Special Economic Zone, as a result of which the petitioners were prohibited from entering the said area.

2. According to the petitioners, when the work of construction of Berth for LNG is started, the petitioners were deprived of any space to store the mined sea shells in the sea shore, which would deprive of their livelihood. The petitioners allege that this would violate their fundamental right to livelihood under Article 21 of the Constitution of India.

3. In the above circumstances, the petitioners seek the following reliefs.

> "i) Issue a Writ of Mandamus directing the respondents to allow the petitioners to continue the present work of mining shells on the sea shore in Puthuvypu in the right side of Kochi Estuary.
>
> ii) Issue a Writ of Mandamus directing the Respondents to pay Rs.10 lakhs to each petitioners as compensation by way of public law remedy in the event of loss of employment and livelihood in the coming days on account of the construction and installation of bearth and oil tanks in and around Special Economic Zones at Puthuvypu at the instance of the respondents.
>
> iii) Issue a Writ of Mandamus directing the respondents to rehabilitate the petitioners in any of the employments emanated on account of this construction of the installations of LNG and KRL."

4. I am of opinion that the petitioners have no legal right for any of the reliefs prayed for. The area has been declared as a Special Economic Zone under a legislation which authorizes the Government to declare areas as Special Economic Zones. Once it is so declared the consequence prescribed under the Act follows which

only has happened in this case. Since the respondents have done the same under the authority of a legislation enacted for the purpose, no challenge against that action would lie on the ground that it would violate the petitioners' right under Article 21 of the Constitution of India, especially since the law which enables the Government to declare the area as Special Economic Zone is not under challenge before me.

In the above circumstances, I am not inclined to entertain this writ petition and accordingly, the same is dismissed.

S. SIRI JAGAN, JUDGE

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